

§ 14.3**§ 14.3 Effect on other issuances.**

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other non-regulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 14.4.

§ 14.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances. The Assistant Secretary may apply more restrictive requirements to a class of recipients when approved by OMB. The Assistant Secretary may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by the Assistant Secretary. An exception made on a case-by-case basis will apply to a single award.

§ 14.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals, other non-profit, or commercial organizations. This part also applies to subrecipients performing work under awards if the subrecipients are foreign governments, organizations under the jurisdiction of foreign governments, and international organizations unless otherwise determined by the Grants Officer. State and local government subrecipients are subject to the provisions of regulations implementing the grants management common rule, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” (15 CFR part 24).

§ 14.6 Availability of OMB circulars.

OMB circulars cited in this part are available from the Office of Management and Budget (OMB) by writing to the Executive Office of the President, Publications Service, 725 17th Street, NW, Suite 200, Washington DC 20503.

Subpart B—Pre-Award Requirements

§ 14.10 Purpose.

Sections 14.11 through 14.18 prescribe forms and instructions and other pre-award matters to be used in applying for Federal awards.

§ 14.11 Pre-award policies.

(a) *Use of grants and cooperative agreements, and contracts.* In each instance, the Grants Officer after coordination with the DoC operating unit shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, “substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.” Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public notice and priority setting.* The DoC operating units shall notify the public of their intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute. At a minimum, public notices shall be published in the FEDERAL REGISTER.

§ 14.12 Forms for applying for Federal assistance.

(a) The DoC operating units shall comply with the applicable report

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clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used by the DoC operating units in place of or as a supplement to the Standard Form 424 (SF-424) series.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by the DoC.

(c) For Federal programs covered by E.O. 12372, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the SF-424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the DoC or the *Catalog of Federal Domestic Assistance*. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) DoC operating units that do not use the SF-424 form should indicate whether the application is subject to review by the State under E.O. 12372.

§ 14.13 Debarment and suspension.

The DoC and recipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.s 12549 and 12689, "Debarment and Suspension," which is implemented by DoC at 15 CFR part 26. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 14.14 High risk special award conditions.

If an applicant or recipient: has a history of poor performance, is not financially stable, has a management system that does not meet the standards prescribed in this part, has not conformed to the terms and conditions of a previous award, or is not otherwise responsible, the Grants Officer may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of

the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 14.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. The DoC shall follow the provisions of E.O. 12770, "Metric Usage in Federal Government Programs."

§ 14.16 Resource Conservation and Recovery Act (RCRA).

Under RCRA (Pub. L. 94-580, 42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247-254). Accordingly, State and local institutions of higher education, hospitals, non-profit, and commercial organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

§ 14.17 Certifications and representations.

Unless prohibited by statute or codified regulation, Grants Officers may